

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JS-6

CIVIL MINUTES—GENERAL

**Case No. CV-13-9102-MWF (MANx)**

**Date: February 25, 2014**

**Title:** Myung Gil Shin -v- United States Postal Service, et al.

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**Present:** The Honorable MICHAEL W. FITZGERALD, U.S. District Judge

Deputy Clerk:  
Rita Sanchez

Court Reporter:  
Not Reported

Attorneys Present for Plaintiff:  
None Present

Attorneys Present for Defendant:  
None Present

**Proceedings (In Chambers):** ORDER DISMISSING ACTION WITHOUT  
PREJUDICE FOR FAILURE TO PROSECUTE

On January 27, 2014, the Court granted Defendant's Motion to Dismiss for Lack of Jurisdiction. (Docket No. 8). The Order permitted Plaintiff Manuel Salcido to file a First Amended Complaint ("FAC") by February 17, 2014. (*Id.* at 4). To date, Plaintiff has failed to file an FAC or a request for extension of time to file an FAC.

The Court finds that the failure to file an FAC constitutes failure to prosecute and to comply with court rules and orders under Federal Rule of Civil Procedure 41(b). "In determining whether to dismiss a claim for failure to prosecute or failure to comply with a court order, the Court must weigh the following factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to defendants/respondents; (4) the availability of less drastic alternatives; and (5) the public policy favoring disposition of cases on their merits." *Pagtalunan v. Galaza*, 291 F.3d 639, 642-43 (9th Cir. 2002); *see also Yourish v. Cal. Amplifier*, 191 F.3d 983, 989-92 (9th Cir. 1999) (explaining factors supporting dismissal with prejudice for failure to prosecute).

Because Plaintiff failed to follow the Court's directives and rules favoring the timely prosecution of his case, the Court concludes that the *Pagtalunan* factors weigh in favor of dismissal of this action. Plaintiff has been dilatory in properly presenting an amended complaint and has provided no explanation for the delay. Plaintiff's failure to engage in the litigation he initiated hampers expeditious resolution of litigation, prejudices Defendants, and inhibits the Court's ability to manage its docket.

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Accordingly, the action is **DISMISSED** *without prejudice* for failure to prosecute and to comply with court rules and orders.

This Order shall constitute notice of entry of judgment pursuant to Federal Rule of Civil Procedure 58. Pursuant to Local Rule 58-6, the Court **ORDERS** the Clerk to treat this order, and its entry on the docket, as an entry of judgment.

IT IS SO ORDERED.